IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1643 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMPACK PRIVATE LIMITED

Versus

PRAVINBHAI KHODABHAI PATEL

Appearance:

1. Special Civil Application No. 1643 of 2002

MR KIRAN C RAVAL for Petitioner No. 1

MR RD RAVAL for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 28/01/2004

ORAL JUDGEMENT

1. The present petition is preferred for challenging the legality and validity of the award passed by the Labour Court, Vadodara in Reference (LCV) No.445/85 as

well as in Misc. Application No.53/98 as well as in Recovery Application No.1162/99. It appears that the proceedings before the Labour Court at the award stage were ex-parte and the petitioner preferred Misc. Application No.53/98 for restoration of Reference which also, ultimately came to be dismissed since the petitioner did not defend the proceedings and did not remain present. Consequently, the respondents-workmen preferred Recovery Application No.1162/99 and in the said Recovery Application, final order came to be passed. All these aforesaid proceedings are challenged in this petition by the petitioner.

2. After hearing Mr.Kiren C. Raval for the petitioner and Mr.R.D.Raval for respondent Nos.1 & 2, it appears that there is consensus amongst the learned counsels appearing for both the sides that if the petitioner is ready to deposit an amount of Rs.1,00,000/= (Rupees one lac) towards the amount which may be ultimately payable in the event of the award is passed again, the matter may be remanded back to the Labour Court for re-adjudication of the reference. There is also consensus amongst the learned counsels appearing for both the sides that out of the amount of Rs.1 lac, both the respondents-workmen may be allowed to withdraw an amount of Rs.25,000/= each, total Rs.50,000/= and the balance amount of Rs.50,000/= may be ordered to be deposited in fixed deposit receipts and the Labour Court may be directed to decide the reference afresh within a stipulated time limit leaving rights of the respondents-workmen open in case the proceedings are delayed beyond a reasonable period.

3. I would have recorded reasons for quashing and setting aside the impugned award passed by the Labour Court and also the consequential orders passed thereafter. However, since the learned counsel appearing for both the sides have submitted that they are agreeable for above referred aspects, I find it proper record reasons. Considering the facts and circumstances and more particularly in view of the consensus arrived at between the learned counsels appearing for the parties, I find that the following directions shall meet the ends of justice :-

(i) The petitioner Company shall deposit an amount of Rs.1 lac within a period of two months from today with the Labour Court, Vadodara.

(ii) It will be open to the respondent Nos.1 & 2 each to withdraw an amount of Rs.25,000/- from the

aforesaid amount which may be deposited by the petitioner on filing undertaking to the Labour Court that the said withdrawal shall be subject to the final outcome after remand and in the event the Labour Court dismisses the reference, the concerned workmen shall re-deposit the amount with the Labour Court.

(iii) After the amount is deposited by the petitioner as indicated hereinabove and after withdrawal of Rs.25,000/= each (total Rs.50,000/=) is permitted by the Labour Court, the Labour Court shall re-try the proceedings of reference (LCV) No.445/85 from the stage at which it proceeded ex-parte against the petitioner and the Labour Court shall decide the reference after giving opportunity in accordance with law and shall pass award afresh and such process shall be completed as early as possible preferably within a period of six months from the date on which the matter is taken up for retrial.

(iv) The Labour Court shall invest the balance amount of Rs.50,000/- in fixed deposit receipt with any nationalised bank until the award is finally passed within the stipulated time as indicated earlier. However in case of any delay beyond the control of the workmen and for any reason reference is not finally decided within a period of six months, it will be open to the respondents workmen to move an appropriate application to the Labour Court for withdrawal of any additional amount in accordance with law. If such application is made, the Labour Court will be at liberty to decide the same and permit withdrawal from the aforesaid amount of Rs.50,000/=.

(v) In view of the aforesaid direction, the award passed by the Labour Court in reference (LCV) No.445/85 as well as order passed in Misc. Application No.53/98 as well as order passed in Recovery Application No.1162/99 shall not survive an shall stand quashed and set aside with the clarification that in case the petitioner fails to deposit the amount within a period of two months from today, all the aforesaid award and orders shall continue to operate.

The petition is allowed in terms of the aforesaid directions. Considering the facts and circumstances of the case, the petitioner shall pay additional amount of

cost of Rs.2500/- to the respondents-workmen.. Rule is made absolute accordingly to the aforesaid extent.

(Jayant Patel, J.)

(vjn)